

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #2	CCRB Case #: 201806466	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/04/2018 2:30 AM	Location of Incident: En route to the 103rd Precinct stationhouse	Precinct: 103	18 Mo. SOL 2/4/2020	EO SOL 2/4/2020	
Date/Time CV Reported Wed, 08/08/2018 1:08 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 08/08/2018 1:08 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicolas Crecca	19967	958447	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Timothy Slevin	12519	956268	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicolas Crecca	Discourtesy: Police Officer Nicolas Crecca spoke discourteously to § 87(2)(b)	
B.POM Nicolas Crecca	Force: Police Officer Nicolas Crecca used physical force against § 87(2)(b)	

## Case Summary

On August 8, 2018, § 87(2)(b) filed the following complaint in-person at the CCRB. On August 4, 2018, at approximately 2:25 p.m. § 87(2)(b) was at his house at 89-36 146<sup>th</sup> Street in Queens. Police were contacted after he and a friend, § 87(2)(b) had been engaged in a dispute at his residence. Police Officer Nicholas Crecca and Police Officer Timothy Slevin, both of the 103<sup>rd</sup> Precinct, arrived at the scene, and § 87(2)(b) was placed under arrest for assaulting § 87(2)(b). Police Officer Slevin and Police Officer Crecca transported § 87(2)(b) from the scene of the arrest to the 103<sup>rd</sup> Precinct stationhouse. On the way to the Precinct stationhouse, Police Officer Crecca stated to § 87(2)(b) “Fuck, you kicked me in the face,” “This guy just kicked me in the fucking face,” and “Why did you have to fucking kick me, man” (**Allegation A-Discourtesy-Word;** § 87(2)(g)) and punched him in the face (**Allegation B-Force-Physical Force;** § 87(2)(g)).

Body-worn camera from both Police Officer Crecca and Police Officer Slevin partially captured this incident (Board Reviews 01 and 02). The full videos that partially capture this incident are in IAs #29 and #33; videos from Police Officer Crecca and Police Officer Slevin that did not partially capture this incident are in IAs #25-28 and #30-32 (Board Reviews 03-09), and are transcribed in IA #34 (Board Review 10). Relevant portions of video are enclosed in the relevant portions of this report below.

## Findings and Recommendations

**Allegation (A) Discourtesy: Police Officer Nicholas Crecca spoke discourteously to § 87(2)(b)**

**Allegation (B) Force: Police Officer Nicholas Crecca used physical force against § 87(2)(b)**

On August 8, 2018, § 87(2)(b) was interviewed at the CCRB. On August 9, 2018, he provided a follow-up telephone statement (Board Review 11). On September 24, 2018, Police Officer Crecca was interviewed at the CCRB. On October 9, 2018, Police Officer Slevin was interviewed at the CCRB.

It is undisputed that Police Officer Crecca placed § 87(2)(b) under arrest for assaulting his friend, § 87(2)(b). It is undisputed that Police Officer Crecca handcuffed § 87(2)(b) and sat with him in the backseat of Police Officer Slevin’s vehicle while Police Officer Slevin transported § 87(2)(b) to the 103<sup>rd</sup> Precinct stationhouse. It is undisputed that during this transport, Police Officer Crecca punched § 87(2)(b) in the face at least once. It is undisputed that Police Officer Crecca used profanity towards § 87(2)(b) during this transport. Several circumstances of the arrest and transport, however, are in dispute.

§ 87(2)(b) stated that during his incident with § 87(2)(b) which he stated did not involve any physical contact between the two parties, he called 911 and spoke with a dispatcher several times, but that no officers arrived at his residence until § 87(2)(b) called 911. § 87(2)(b) stated that he consumed at least half of a bottle of wine during this incident, and that the alcohol impaired his recollection. Once officers, including Police Officer Crecca, arrived, Police Officer Crecca handcuffed § 87(2)(b) and placed him in a police vehicle. § 87(2)(b) stated that, during the transport, following a hostile verbal exchange that he could not describe, Police Officer Crecca struck him in the face and head several times, causing § 87(2)(b) to lose consciousness. § 87(2)(b) stated in his in-person interview that he did not remember whether he kicked any

officers, and during his follow-up telephone statement that he did not think that his foot or leg made contact with any officer (Board Review 11). He reported bruising and a laceration requiring six stitches over his left eye, bruising over his right eye, and bruising on the bridge of his nose. He took photos of these injuries shortly after he was released from police custody (Board Reviews 12-16). § 87(2)(b) did not allege any discourteous language.

Police Officer Crecca stated that after he placed § 87(2)(b) in Police Officer Slevin's patrol vehicle, and sat next to him in the backseat, § 87(2)(b) became agitated, and started to curse. He then kicked Police Officer Crecca once in the face. Police Officer Crecca then struck § 87(2)(b) once on the left side of his face to gain control of him. Police Officer Crecca then held his arms outstretched and pinned § 87(2)(b) down in the car, as § 87(2)(b) tensed his shoulders and pushed off of the walls of the car. Police Officer Crecca denied that § 87(2)(b) lost consciousness. Police Officer Crecca stated that he may have said, "Fuck, you kicked me in the face," that he definitely said that that § 87(2)(b) kicked him in the "fucking face." and that he asked why § 87(2)(b) "fucking kicked" him. He made these statements because he had had a burst of adrenaline from § 87(2)(b) kicking him in the face.

Police Officer Slevin, the only other party present in the vehicle, was driving at the time of the incident, and did not see what happened in the backseat. He stated that § 87(2)(b) was yelling for the entirety of the car ride, and did not appear to lose consciousness at any point.

Police Officer Crecca's body-worn camera fell off during this incident, while he was in the backseat of the car (Board Review 01). Police Officer Slevin's body-worn camera captured audio of what occurred, but it was not pointed towards the backseat (Board Review 02). It captured noises of a physical scuffle, and § 87(2)(b) becoming agitated, and Police Officer Crecca saying both, "Fuck, you kicked me in the face," and "fucking face" during the transport to the stationhouse. During this video, § 87(2)(b) does not at any point stop talking to the officers from the time he leaves the scene of the arrest to the time that he is taken into the Precinct stationhouse (Board Review 10).



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The Event Summary for the 103<sup>rd</sup> Precinct around the time of the incident did not indicate that any calls were made from § 87(2)(b)'s residence before the call that § 87(2)(b) made, reporting that her boyfriend had beaten her (Board Review 34 and 35).

§ 87(2)(b)'s arrest photo (Board Review 20), the Medical Treatment of Prisoner form (Board Review 24), Police Officer Crecca's Line of Duty Injury paperwork (Board Review 19), § 87(2)(b)'s Arrest Report, the UF-61 Complaint Report, the Threat Resistance and Injury Report (Board Review 22), the Investigative Supervisor's Assessment Report (Board Review 23), and the Criminal Court Complaint (Board Review 21) all consistently record lacerations and a bruise over § 87(2)(b)'s left eye, and none contradict that Police Officer Crecca punched § 87(2)(b) on the left side of his face after § 87(2)(b) kicked him. ). Photos that § 87(2)(b) took after being released from police custody (Board Reviews 12-16) show visible and pronounced redness in both of his eyes.

The Arrest Report (Board Review 32), Criminal Court Complaint (Board Review 21), AIDED Report for Police Officer Crecca (Board Review 33), and Line of Duty Injury paperwork (Board Review 19) report all record that Police Officer Crecca was removed to the hospital and experienced face pain, and either hand or arm pain as a result of being kicked by § 87(2)(b).

§ 87(2)(b) went to § 87(2)(b) Hospital after he was released from police custody. He reported a potential loss of consciousness to the medical staff. He was ultimately diagnosed with a hematoma over his left eye, and redness in both eyes (Privileged Documents).

Per Patrol Guide Procedure 221-01, officers shall not use any level of force on handcuffed subjects in the absence of active resistance or assault (Board Review 25). Per Patrol Guide Procedure 203-09, officers must speak courteously to members of the public (Board Review 26). Disciplinary Case 2013-10143, however, concluded that an officer's use of profanity in response to being struck in the head constituted a stressful enough situation to render the act not "actionable" misconduct (Board Review 27).

§ 87(2)(g)  
t. § 87(2)(b) did not ever directly deny kicking Police Officer Crecca in the face, and he admitted that alcohol he consumed that evening impaired his recollection of what occurred. That this occurred is consistently reported by Police Officer Crecca in the contemporaneous BWC audio, in NYPD paperwork, and in his CCRB statement § 87(2)(g)

Police Officer Crecca's description of the force he used, one blow to § 87(2)(b)'s face, is not incongruous with § 87(2)(b)'s injuries, which primarily appear on one area of his face, over his left eye, as observed in photographs and recorded in police documents and medical records. However, § 87(2)(b) had multiple injuries in close proximity around his left eye, which could also have been caused by multiple blows to this one area. In sum, the injuries suffered by § 87(2)(b) could have been caused by more than one punch to the face, though they are not conclusive enough to prove that multiple blows occurred, or to determine how many blows occurred.

§ 87(2)(b), § 87(2)(g)  
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#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 28).
- Police Officer Crecca has been a member of service for three years. This is the first CCRB complaint to which he has been a subject (Board Review 29).

**Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- On September 4, 2018, the New York City Office of the Comptroller has no record of a notice of claim being filed for this case (Board Review 30)
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print Title & Name                      Date

Squad Leader: \_\_\_\_\_  
Signature                      Print Title & Name                      Date

Reviewer: \_\_\_\_\_  
Signature                      Print Title & Name                      Date